

NO. _____

THE STATE OF TEXAS,
Plaintiff,

v.

NEAL NEVEJANS, d/b/a
Immigration Services,
Defendant.

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IN THE DISTRICT COURT OF

VAN ZANDT COUNTY, TEXAS

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____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL VERIFIED PETITION AND APPLICATION FOR
EX PARTE TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION,
PERMANENT INJUNCTION AND ASSET FREEZE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, the STATE OF TEXAS, Plaintiff, acting by and through Attorney General of Texas GREG ABBOTT (referred to herein as the “Attorney General”), on behalf of the State of Texas, and on behalf of the interest of the general public of the State of Texas, and complains of NEAL NEVEJANS d/b/a IMMIGRATION SERVICES. The Attorney General would respectfully show the Court as follows:

DISCOVERY CONTROL PLAN

1. Discovery shall be conducted under Level 2 of rule 190.3 of the Texas Rules of Civil Procedure.

JURISDICTION

2. This action is brought by Attorney General Greg Abbott through his Consumer Protection and Public Health Division in the name of the STATE OF TEXAS under the authority granted to

him pursuant to §17.47 of the Texas Deceptive Trade Practices–Consumer Protection Act, TEX. BUS. & COM. CODE § 17.41 *et seq.*, (“DTPA”), permitting the Consumer Protection and Public Health Division of the Attorney General’s office to bring an action to restrain, by temporary restraining order, temporary injunction, or permanent injunction, the use of any method, act or practice declared to be unlawful by TEX. BUS. & COM. CODE § 17.46, where such proceedings are in the public interest.

3. The Attorney General files this suit against Defendant on the grounds that:

A. Defendant has engaged in false, deceptive and misleading acts and practices in the course of trade and commerce as defined herein and as declared unlawful pursuant to the Texas Deceptive Trade Practices--Consumer Protection Act (referred to herein sometimes as the “DTPA”), TEX. BUS. & COM. CODE § 17.41 *et seq.*;

ii. This suit is brought against Defendant for injunctive relief, actual damages, restitution, civil fines and penalties, costs, and attorney’s fees as a result of the violations of the DTPA.

PARTY DEFENDANT

4. Defendant Neal Nevejans is an individual residing in Ben Wheeler, Van Zandt County, Texas and is doing business in the State of Texas under his own name and the name of *Immigration Services*. Defendant may be served with citation and process at his place of business and residence at 191 VZ County Road 4827, Ben Wheeler, TX 75754, or wherever he may be found.

VENUE

5. Venue of this suit lies is in Van Zandt County, Texas for the following reasons:

A. Under the DTPA § 17.47(b), venue is proper because Defendant resides and has done business in Van Zandt County, Texas; and

B. Under the DTPA § 17.47(b), venue is proper because many of the allegations and transactions complained of herein occurred in Van Zandt County, Texas;

C. Under the DTPA §17.56, venue is proper because the Defendant has done business in Van Zandt County and all or part of the actions arose in Van Zandt County. Van Zandt County, Texas is the county in which the Defendant, or an authorized agent of the Defendant, solicited the transactions made the subject of this action. *See also* TEX. CIV. PRACT. & REM. CODE ANN. § 15.002 (a)(1)-(3).

ACTS OF AGENTS

6. Whenever in this petition it is alleged that Defendant did any act or thing, it is meant that:

A. Defendant performed or participated in the act, or

B. That the Defendant's officers, trustees, employees, agents, representatives, or successors, performed or participated in the act on behalf of and under the authority of the Defendant.

PUBLIC INTEREST

7. Because Plaintiff State of Texas has reason to believe that the Defendant has engaged in, and will continue to engage in the unlawful practices set forth below, Plaintiff State of Texas has reason to believe Defendant has caused and will cause immediate, irreparable injury, loss and damage to the State of Texas, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State. Therefore, the Consumer Protection and Public Health Division of the Attorney General of the State of Texas believes and is of the opinion that

these proceedings are in the public interest.

TRADE AND COMMERCE

8. Defendant has at all times described herein, engaged in conduct constituting “trade” and “commerce,” as those terms are defined in §17.45(6) of the DTPA.

NOTICE BEFORE SUIT NOT GIVEN

9. Plaintiff did not inform Defendant herein at least seven (7) days before instituting this action of the alleged unlawful conduct of which complaint is now made, pursuant to DTPA § 17.47(a), for the reason that Plaintiff is of the opinion that there is good cause to believe that such an emergency exists that immediate and irreparable injury, loss or damage would occur as a result of such delay in obtaining a temporary restraining order, and that the Defendant would evade service of process, destroy relevant records and secrete assets if prior notice of this suit were given.

SPECIFIC FACTUAL ALLEGATIONS

10. Defendant Neal Nevejans operates a business known as Immigration Services in Van Zandt County, Texas. (Exhibit “A,” “H”) Defendant Nevejans is currently a Notary Public. (Exhibit “B”) Immigration Services, as the name would suggest, primarily provides immigration assistance services.

11. Defendant provides counseling regarding U.S. immigration laws and procedures, for a fee. (Exhibits “C,” “E,” “F”) Defendant targets and solicits persons, primarily from the Republic of Mexico, attempting to immigrate and/or obtain residency in the U.S., as well as the friends and family members of such persons. (Exhibits “E,” “F”)

12. Defendant represents to consumers that he is qualified to prepare all of their applications,

forms and other pertinent documentation as required by the immigration laws of this country. (Exhibits “C,” “D,” “E,” “F”) Defendant fails, however to inform consumers that he is not authorized or qualified to provide such services. (Exhibits “C,” “D,” “E,” “F”)

13. To represent consumers on immigration matters legally, one must be a licensed attorney, an appropriately supervised law student, or a person accredited by the Board of Immigration Appeals. 8 C.F.R. § 292. Defendant is not an attorney or law student and is not accredited by the Board of Immigration Appeals to represent persons in a proceeding relating to immigration to the U.S., or obtaining citizenship or other related matter. (Exhibit “B”) Defendant is also not qualified under 8 C.F.R. §292 to represent consumers because he receives remuneration from consumers on immigration matters while having no pre-existing relationship or connection with such persons entitled to the representation. (Exhibits “C,” “E,” “F,”) Defendant has failed to obtain permission from the Board of Immigration Appeals to act as the representative of said consumers. (Exhibit “B”)

14. In addition, Defendant provides legal advice and prepares visa applications and other legal documentation for consumers, for a fee. (Exhibits “C,” “D,” “E,” “F,” “G”) The Defendant does not and has not possessed the certification, license, or other qualifications necessary to perform such services. (Exhibit “B”)

15. Defendant is not licensed by the State Bar of Texas to practice as an attorney in the State of Texas, nor has he at all relevant times worked under the direct daily supervision of a licensed attorney. (Exhibit “B”)

16. Defendant bills his services as “Paralegal Services Rendered,” but does not work under the

direct daily supervision of a licensed attorney. (Exhibit “C”)

17. Defendant’s failure to disclose his lack of authority and accreditation is intended to induce consumers into transactions which they would not have entered if the information had been disclosed to them. (Exhibit “C,” “E,” “F”)

VIOLATIONS OF THE DTPA

18. The State has reason to believe that Defendant has engaged in and will continue to engage in false, misleading, and deceptive acts and practices unless restrained by this Court from doing so.

19. Defendant, in the course and conduct of trade and commerce, has directly and indirectly engaged in false, misleading and deceptive acts and practices declared to be unlawful by the DTPA, to wit:

A. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services, in violation of § 17.46(b)(2), by representing that Defendant’s services possess the certification or qualifications necessary to counsel persons regarding their rights under U.S. immigration laws or to represent them in immigration matters when Defendant does not have such qualification or certification;

B. Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another, in violation of § 17.46(b)(3), by representing that Defendant possesses the certification or qualifications necessary to counsel persons regarding their rights under U.S. immigration laws or to represent them in immigration matters when Defendant does not have such qualification or certification;

C. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not have, in violation of § 17.46(b)(5), by representing that Defendant's services possess the certification or qualifications necessary to counsel persons regarding their rights under U.S. immigration laws or to represent them in immigration matters when Defendant does not have such qualification or certification;

D. Representing that services are of a particular standard, quality, or grade if they are of another, in violation of § 17.46(b)(7), by calling himself a "paralegal" and leading consumers to believe that Defendant was qualified as an expert in immigration services;

E. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law, in violation of § 17.46(b)(12), by telling consumers that Defendant will provide representation or immigration counseling when Defendant is prohibited by law from doing so;

F. Failing to disclose information concerning services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed, in violation of § 17.46(b)(24), by failing to disclose to consumers that Defendant is not qualified to counsel them regarding their rights under U.S. immigration laws or represent them in immigration matters with the intention of inducing consumers into transactions which they would not have entered had this information been disclosed.

20. Defendant states and/or implies that he is an attorney licensed to practice law in the State

of Texas. Further, Defendant solicits and accepts compensation to prepare documents for or otherwise represent the interest of another in proceedings relating to immigration to the United States. Such behavior violates:

TEX. GOV. CODE §§ 406.017 (a)(1) states that a notary public cannot state or imply that he is an attorney licensed to practice law in this state.

TEX. GOV. CODE §406.017 (a)(2) prohibits a notary public from soliciting or accepting compensation for preparing documents or otherwise representing the interests of another in any judicial or administrative proceeding, including an immigration proceeding.

TEX. GOV. CODE §406.017 (f) provides that failure to comply with this section is, in addition to any other applicable law of this state, a deceptive trade practice actionable under the DTPA.

21. By means of the foregoing unlawful acts and practices, Defendant has acquired money or other property from identifiable persons to whom such money or property should be restored, or who in the alternative are entitled to an award of damages.

DISGORGEMENT

22. All of the Defendant's assets are subject to the equitable remedy of disgorgement, which is the forced relinquishment of all benefits that would be unjust for Defendant to retain, including all ill-gotten gains and benefits or profits that result from Defendant putting fraudulently converted property to a profitable use. Defendant should be ordered to disgorge all monies fraudulently taken from individuals and businesses together with all of the proceeds, profits, income, interest and accessions thereto. Such disgorgement should be for the benefit of victimized consumers and the State of Texas.

REPATRIATION OF ASSETS

23. After due notice and a hearing, the court should order that all of the Defendant's assets

situated outside the jurisdiction of this Court be deposited or repatriated into an appropriate financial institution within the jurisdiction of this Court.

REQUEST FOR FINDINGS OF ACTUAL FRAUD AND FALSE REPRESENTATION

24. The Court should make findings at the conclusion of this case that the Defendant engaged in actual fraud and false representations in that Defendant has made repeated and materially false representations to the public concerning the issues of immigration and the ability of Defendant to represent and/or assist consumers in immigration documentation and proceedings, which was known to be false when made. Such false representations were made with the intention that they be acted upon by the parties to whom the misrepresentations were made. Reliance upon these false representations has resulted in injury to numerous consumers in the State of Texas, and violates laws enacted by the State of Texas to protect the legal profession and citizens from non-licensed individuals practicing law.

NECESSITY OF IMMEDIATE RELIEF TO PRESERVE DEFENDANT'S ASSETS

25. Plaintiff requests immediate relief by way of a Temporary Restraining Order and Temporary Injunction to preserve and protect the Defendant's assets from dissipation so that the many victims of Defendant's actions can receive the restitution to which they are entitled. The Defendant receives sums of money for services proffered which Defendant is not authorized to provide. Thus, the money collected from consumers by Defendant constitutes contraband which should be returned to its rightful owners. The **assets** of the Defendant are subject to dissipation and secretion and therefore should be **frozen** pending final trial so restitution can be made, and full and final relief can be

awarded at the resolution of this litigation.

TRIAL BY JURY

26. Plaintiff herein requests a jury trial and tenders the jury fee to the Van Zandt County District Clerk's office pursuant to TEX. R. CIV. P. 216 and TEX. GOVT. CODE ANN. §51.604.

APPLICATION FOR EX PARTE TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION, PERMANENT INJUNCTION AND ASSET FREEZE

27. Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless immediately restrained by this Honorable court, the Defendant will continue to violate the laws of the State of Texas and cause immediate, irreparable injury, loss and damage to the State of Texas and to the general public. The interests of the State of Texas and the public require an Ex Parte Asset Freeze to preserve monies for consumer restitution. Therefore, Plaintiff requests an Ex Parte Temporary Restraining Order, Temporary Injunction, Permanent Injunction and Asset Freeze as indicated below.

PRAYER

28. WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; that before notice and hearing a TEMPORARY RESTRAINING ORDER be issued; that after due notice and hearing a TEMPORARY INJUNCTION be issued; and upon final hearing a PERMANENT INJUNCTION be issued, restraining and enjoining Defendant, Defendant's successors, assigns, officers, agents, servants, employees and attorneys and any other person in active concert or participation with Defendant from engaging in the following

acts or practices:

- A. Transferring, concealing, destroying or removing from the jurisdiction of this Court any books, records, documents, invoices, or other written materials relating to Defendant's business which are in Defendant's possession, custody, or control except in response to further orders or subpoenas in this cause;
- B. Transferring, spending, hypothecating, concealing, encumbering, depleting, modifying, dissipating, distributing, or removing from the jurisdiction of this Court any money, stocks, bonds, assets, notes, equipment, funds, accounts receivable, policies of insurance, trust agreements, or other property, real, personal or mixed, wherever situated, belonging to or owned by, in possession of, or claimed by Defendant;
- C. Giving, providing, or offering advice and counsel to any person regarding U.S. immigration laws, rights, privileges, or documents, until such time as Defendant either becomes a licensed attorney, or is accredited by the U.S. Board of Immigration Appeals pursuant to 8 C.F.R. § 292;
- D. Representing to any person, expressly or by implication, that Defendant can or will represent the interest of another in a judicial or administrative proceeding, including a proceeding relating to immigration to the United States, U.S. citizenship, or any other immigration related matter (including alien temporary or permanent employment or travel), until Defendant is able to fully comply with the requisites of 8 C.F.R. § 292 by becoming a licensed attorney, a properly

supervised law student, or by becoming accredited by the U.S. Board of Immigration Appeals;

- E. Selecting or preparing immigration forms, applications, or legal documents of any type to be completed or filed on behalf of persons seeking to legalize their residency status or to obtain lawful employment in the United States, until such time as Defendant obtains the certification, license, or other qualifications required for such activity pursuant to 8 C.F.R. § 292;
- F. Advising persons, expressly or by implication, of the type of form, application or document needed in any type of proceeding relating to immigration to the U.S., U.S. Citizenship, employment in the U.S., or any other matter relating to the needs of alien residents or non-residents;
- G. Giving persons advice and counsel regarding their rights under the immigration laws of the United States or any other sort of legal matter, until such time as Defendant obtains the certification, license, or other qualifications required for such activity pursuant to 8 C.F.R. § 292;
- H. Soliciting, collecting, or accepting fees or compensation of any type, for providing any type of immigration or legal services to consumers, until such time as Defendant obtains the accreditation, license, or other qualifications required for such, pursuant to 8 C.F.R. § 292;
- I. Representing, expressly or by implication, that Defendant is able to provide or obtain counterfeit documents for persons wishing to immigrate to the U.S. which

will aid such person to gain employment, residency, citizenship, or other benefit;

J. Stating or implying that Defendant is an attorney licensed to practice law in this State or that Defendant has an attorney on staff to assist him with immigration related matters;

K. Soliciting or accepting compensation of any type to obtain relief of any kind on behalf of another from any officer, agency, or employee of this state or the United States;

L. Advertising immigration related services of any kind via the internet, radio, TV, electronic broadcast or print (i.e. newspapers, magazines, pamphlets, fliers, etc.) until Defendant has met the requisites of 8 C.F.R. § 292.

29. Because Defendant has engaged in the unlawful acts and practices described herein, Defendant has violated and continues to violate the laws as herein alleged. Defendant, unless enjoined by this Court, will continue in violation of the laws of the State of Texas and loss and damage will result to the State of Texas and to the general public.

30. The State further prays that upon final hearing this Court order Defendant to pay civil penalties of \$20,000.00 per violation to the State of Texas for violations of the DTPA;

31. The State further prays for the Court to order Defendant to restore all money or other property taken from identifiable persons by means of unlawful acts or practices, or in the alternative, award judgment for damages to compensate for such losses.

32. The State further prays for attorney's fees and costs pursuant to TEX GOV'T CODE ANN. §402.006(c).

33. The State further prays for pre-judgment interest on all awards of restitution, damages, and civil penalties as provided by law.
34. The State further prays that Defendant's assets be repatriated into the jurisdiction of this court, that Defendant's assets be subject to disgorgement, and that an equitable lien be placed upon Defendant's property for the benefit of consumer victims.
35. The State requests that all attached exhibits are incorporated by reference as if stated verbatim herein.
36. The State further prays for any other relief to which the State may be justly entitled under the law.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

BARRY McBEE
First Assistant Attorney General

EDWARD BURBACH
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(214) 969-7639
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ATTORNEY FOR STATE OF TEXAS

VERIFICATION

STATE OF TEXAS

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COUNTY OF DALLAS

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Before me, the undersigned Notary Public, on this day personally appeared Amy Russom, who, after being duly sworn, stated under oath that she is one of the Investigators for Plaintiff in this action, that she has read the above petition, and that every statement contained in the petition is true and correct and within the personal knowledge of all of the affiants as indicated in the affidavits attached to Plaintiff's Original Petition.

AMY RUSSOM, Investigator

SUBSCRIBED AND SWORN TO before me, on the _____ day of April, 2005, to certify which witness my hand and official seal.

Notary Public
State of Texas